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2 Hannah E. Winston, Esq. #14520
3 **ROBISON, SHARP, SULLIVAN & BRUST**
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5 Reno, Nevada 89503
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10 Attorneys for Defendant
11 COSTCO WHOLESALE CORPORATION

12 **UNITED STATES DISTRICT COURT**

13 **DISTRICT OF NEVADA**

14 TONJA FRANCES BROWN, an individual,

Case No.: 3:22-cv-208

15 Plaintiff,

First Judicial District Court

Case No.: 22 TRT 00020 1B

16 vs.

**DEFENDANT COSTCO WHOLESALE
CORPORATION'S PETITION FOR
REMOVAL**

17 COSTCO WHOLESALE CORPORATION
18 dba COSTCO WHOLESALE, a foreign
19 corporation; DOE INDIVIDUALS I through X;
20 and ROE ENTITIES I through X,

21 Defendants.
22 _____/

23 Defendant COSTCO WHOLESALE CORPORATION, a Foreign Corporation ("Costco"),
24 by and through its counsel of record, Michael E. Sullivan, Esq. and Hannah E. Winston, Esq., of
25 the law offices of Robison, Sharp, Sullivan & Brust submits this Petition for Removal of the above-
26 captioned lawsuit entitled TONJA FRANCES BROWN, an individual vs. COSTCO
27 WHOLESALE CORPORATION dba COSTCO WHOLESALE, a foreign corporation; DOE
28 INDIVIDUALS I through X; and ROE ENTITIES X through X, Case No. 22 TRT 00020 1B,
assigned to Department Number I, in the First Judicial District Court located in the County of
Carson City, State of Nevada ("State Court") to this Court pursuant to 28 U.S.C. §§1332(a), 1441,
and 1446(b)(3).

///

I. COMPLIANCE WITH PROCEDURAL REQUIREMENTS

1. COSTCO was served with a copy of Plaintiff TONJA FRANCES BROWN's ("Brown") State Court Summons and Complaint ("Complaint") on or about April 28, 2022. Thus, this removal is timely because the 30-day period for filing the removal has not passed. 28 U.S.C. §1446(b). Additionally, removal is timely because it is filed within one year from when Plaintiff Brown filed the original Complaint in the State Court action on or about April 18, 2022.

2. Pursuant to 28 U.S.C. §1446(a), COSTCO has attached a true and correct copy of the Complaint filed April 18, 2022 as **EXHIBIT "1"**, and a true and correct copy of the Proof of Service Summons and Complaint file April 28, 2022 is attached as **EXHIBIT "2."**

3. COSTCO has provided and served a copy of the Petition for Removal on Plaintiff BROWN, through their counsel Nicole C. Bolick, Esq. of VALIENTE MOTT, LTD, and COSTCO will timely file a copy of the Petition for Removal with the Clerk of the Carson City County District Court as required by 28 U.S.C. §1446(d).

4. COSTCO is informed and believes and hereon alleges that no other parties have appeared apart from itself and Plaintiff BROWN.

5. Removal from State Court to this Court is proper as this district embraces the place where the action is pending per 28 U.S.C. §1441(a).

II. BACKGROUND

6. Plaintiff has asserted in her Complaint two (2) causes of action for Negligence and Negligence Via Vicarious Liability against all Defendants arising out of an alleged personal injury which occurred in the Costco Wholesale Store #127 in Carson City, Nevada. Plaintiff BROWN alleges that as she stepped over to pick out some strawberries and blueberries, her right foot slipped on a hazardous substance on the floor causing her to lose her balance, and she hyper-extended her knee. Plaintiff's demand letter to Costco (dated April 8, 2022) seeks \$500,000 as damages.

III. COMPLETE DIVERSITY OF CITIZENSHIP AS TO THE PARTIES

7. COSTCO is informed and believes that Plaintiff is a citizens of Nevada.

8. COSTCO is a corporation organized under the laws of the state of Washington and has its principal place of business in the State of Washington.

1 **IV. AMOUNT IN CONTROVERSY**

2 9. The amount in controversy in this action exceeds \$75,000. *See Exhibit 5* –
3 Plaintiff's Demand Letter of \$500,000. In the instant action, Plaintiff BROWN seeks unspecified
4 damages in her Complaint for an alleged injury.

5 DATED this 6th day of May, 2022.

6 ROBISON, SHARP, SULLIVAN & BRUST
7 71 Washington Street
8 Reno, Nevada 89503

9
10 By:  

11 MICHAEL E. SULLIVAN, ESQ.

12 HANNAH E. WINSTON, ESQ.

13 Attorneys for Defendant

14 COSTCO WHOLESALE CORPORATION
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CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify that I am an employee of ROBISON, SHARP, SULLIVAN & BRUST, and that on this date I caused to be served a true copy of **DEFENDANT COSTCO WHOLESALE CORPORATION'S PETITION FOR REMOVAL** on all parties to this action by the method(s) indicated below:

_____ by placing true copy thereof in a sealed envelope, with sufficient postage affixed thereto, in the United States mail at Reno, Nevada, addressed to:

Nicole C. Bolick, Esq.
Timothy A. Mott, Esq.
James A. Trummell, Esq.
VALIENTE MOTT, LTD.
7785 W Sahara Avenue, Suite 102
Las Vegas, NV 89117

_____ by using the Court's CM/ECF Electronic Notification System addressed to:

Nicole C. Bolick, Esq.	nicole@valientemott.com
Timothy A. Mott, Esq.	tim@valientemott.com
James A. Trummell, Esq.	jim@valientemott.com

_____ by email addressed to:

Nicole C. Bolick, Esq.	nicole@valientemott.com
Timothy A. Mott, Esq.	tim@valientemott.com
James A. Trummell, Esq.	jim@valientemott.com

_____ by facsimile (fax) addressed to:

Nicole C. Bolick, Esq.
Timothy A. Mott, Esq.
James A. Trummell, Esq.

_____ by Federal Express/UPS or other overnight delivery addressed to:

DATED this 6th day of May, 2021



Employee of Robison, Sharp, Sullivan & Brust

[illegible]

EXHIBIT “1”

EXHIBIT “1”

VALIENTE MOTT

1 TIMOTHY A. MOTT, ESQ.
Nevada Bar No. 12828
2 *tim@valientemott.com*
JAMES A. TRUMMELL, ESQ.
3 Nevada Bar No. 14127
jim@valientemott.com
4 NICOLE C. BOLICK, ESQ.
Nevada Bar No. 15015
5 *nicole@valientemott.com*
6 VALIENTE MOTT, LTD.
7785 W. Sahara Ave. #102
7 Las Vegas, Nevada 89117
Telephone: (702) 623-2323
8 Facsimile: (702) 623-2323

9 *Attorneys for Plaintiff*
10 *TONJA FRANCES BROWN*

IN THE FIRST JUDICIAL DISTRICT COURT

IN AND FOR THE COUNTY OF CARSON CITY, STATE OF NEVADA

15 TONJA FRANCES BROWN, an individual,

16 Plaintiff,

17 v.

18 COSTCO WHOLESALE CORPORATION
19 dba COSTCO WHOLESALE, a foreign
20 corporation; DOE INDIVIDUALS I through X,
and ROE ENTITIES I through X,

21 Defendants.

Case No. 22 TRT 00020 1BDept. No. I

COMPLAINT

EXEMPTION FROM
ARBITRATION REQUESTED -
AMOUNT IN CONTROVERSY IN
EXCESS OF \$50,000

24 Plaintiff TONJA FRANCES BROWN ("Plaintiff"), by and through her attorneys of record
25 with the firm VALIENTE MOTT, LTD., for her causes of action against Defendant COSTCO
26 WHOLESALE CORPORATION dba COSTCO WHOLESALE, a foreign corporation,
27 ("Defendant"), and each of them, complains and alleges as follows:
28 ...

REC'D & FILED
2022 APR 10 PM 2:42
AUBREY ROYALATI
S. BARAJA
SY
DEPUTY

PARTIES AND JURISDICTION

1. Plaintiff TONJA FRANCES BROWN ("Plaintiff"), at all times here mentioned, was and is a resident of Carson City, State of Nevada.

2. Upon information and belief, at the time of the incident on May 2, 2020, Defendant COSTCO WHOLESALE CORPORATION dba COSTCO WHOLESALE ("COSTCO"), is a was a foreign corporation and a Nevada entity registered in Carson City authorized to conduct and do business in the State of Nevada.

3. Upon information and belief, the tortious event upon which this negligent action is based, occurred at Costco Wholesale Store #127 located at 700 Old Clear Creek Rd, Carson City, Nevada 89705. (hereinafter "Costco Store")

4. Pursuant to NRCF 10(d) and *Costello v. Casler*, 127 Nev. 437, (2011), the identity of resident and non-resident defendants designated herein as DOE INDIVIDUALS I through X and ROE ENTITIES I through X, in their true capacities, whether individual, corporate, associate or otherwise of the Defendants named herein are unknown to Plaintiff who, therefore, sues said Defendants by said fictitious names. Plaintiff believes and thereon alleges that each of the Defendants designated as DOE INDIVIDUALS I through X and/or ROE ENTITIES I through X are responsible in some manner for the events and happenings referred to herein and caused damages proximately to Plaintiff as herein alleged. To the extent Plaintiff did not name a correct entity, Plaintiff will move to amend this Complaint to insert the true names and capacities of DOE INDIVIDUALS I through X and ROE ENTITIES I through X when the same have been ascertained and to join such Defendants in this action.

5. Plaintiff is informed and believes, and thereon alleges, that at all relevant times mentioned herein, named Defendants, DOES and ROES, and each of them, were the owner, partner, servant, officer, agent, employer and/or employee of the other, and each of them, and were at all relevant times acting within the scope and performance of said partnership and with the knowledge and consent of the remaining Defendants at the time of the event leading to Plaintiff's injury.

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6. Exercise of the jurisdiction by this Court over Defendants in this action is appropriate because Defendant COSTCO was authorized to do business in Nevada, conducted business in Nevada, continue to conduct business in Nevada, committed a tort in Nevada, and the amount in controversy is in excess of \$15,000.00.

7. Venue is proper in the First Judicial District Court, County of Carson City, State of Nevada, as the forum most convenient for all parties and the forum wherein the tortious conduct and act, which is the subject matter of this litigation, occurred.

GENERAL FACTUAL ALLEGATIONS

8. Plaintiff incorporates and realleges the preceding paragraphs as though fully set forth herein.

9. At all times relevant herein, the Defendant, DOE INDIVIDUALS I through X and/or ROE ENTITIES I through X, were the owners, managers, maintainers, inspectors, supervisors, controllers and/or agents of the premises and/or Defendants.

10. On or about May 2, 2020, Plaintiff was shopping at the Costco Store, which was owned and/or operated by Defendant COSTCO.

11. Defendant COSTCO allows persons into its stores, such as the Costco Store involved in this action, who pay money to obtain an exclusive membership to shop for consumer goods and services at Defendant COSTCO. These persons are known as "Costco Members".

12. On the date and time of incident, Plaintiff was a Costco Member and invitee to the Costco Store.

13. After entering the Costco Store, Plaintiff walked to the produce section ("subject area"). As Plaintiff stepped over to pick out some strawberries and blueberries, her right foot slipped on a hazardous substance on the floor causing her to lose her balance, hyper-extend her knee, and suffer severe bodily injuries and damages.

14. All of the foregoing paragraphs shall be hereafter referred to as the "subject incident".

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15. Upon information and belief, and at all times relevant hereto, Defendant COSTCO, held ownership, custody, and/or control over the physical area of the Costco Store, including the customer walkway, the produce section, and the subject area where the subject incident occurred.

16. That, upon information and belief, and at all times relevant hereto, Defendant COSTCO, were responsible for maintaining, cleaning, servicing, and/or repairing the subject area where the subject incident occurred.

17. That Plaintiff had permission and/or consent from Defendant COSTCO, whether expressed or implied, to be on the premises and in the produce section where the subject incident occurred.

18. At the time of incident, the subject area was not marked in any manner or way to warn Plaintiff and/or other pedestrians against the danger in and around the subject area that contain a hazardous condition.

19. Upon information and belief, the hazardous condition in the subject area was placed and/or maintained and/or allowed to exist on the ground by Defendant COSTCO and/or DOE INDIVIDUALS and/or ROE ENTITIES, as agents, servants, workers, and/or employees of Defendants.

20. Upon information and belief, the hazardous condition in the subject area was noticed or should have been noticed on the ground by Defendant COSTCO and/or DOE INDIVIDUALS and/or ROE ENTITIES, as agent(s), servant(s), worker(s), and/or employee(s) of Defendant.

21. Upon information and belief, the hazardous condition in the subject area existed on the ground for such a length of time that Defendant COSTCO and/or DOE INDIVIDUALS and/or ROE ENTITIES, as agent(s), servant(s), worker(s), and/or employee(s) of Defendant should have known of its presence.

22. Upon information and belief, Defendant COSTCO had or should have had actual or constructive notice of the hazardous condition in the subject area prior to the subject incident.

23. At all times herein concerned and relevant to this action, Defendant COSTCO, and/or DOE INDIVIDUALS and/or ROE ENTITIES, acted by and through their duly authorized

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1 agents, servants, workers, and/or employees and they were acting within the course and scope of
2 their employment and scope of their authority for Defendant COSTCO.

3 24. Defendant COSTCO and its employees and agents have a duty of care to routinely
4 inspect, maintain, supervise, and clean the floor and walkways in the Costco Store so that potential
5 hazards and/or hazardous materials/substances are removed and/or otherwise remediated.

6 25. On the date and time of the subject incident, and all relevant times thereto,
7 Defendant COSTCO and/or DOE INDIVIDUALS and/or ROE ENTITIES, while in the course
8 and scope of their employment and agency with other Defendants, negligently failed to maintain,
9 manage, inspect, clean, supervise, control, and repair the subject area in the Costco Store, which
10 resulted in a hazardous condition for its members, such as Plaintiff.

11 26. On the date and time of the subject incident, and all relevant times thereto,
12 Defendant COSTCO and/or DOE INDIVIDUALS and/or ROE ENTITIES, while in the course
13 and scope of their employment and agency with other Defendants, negligently failed to warn
14 Plaintiff of the hazardous condition in the subject area, which resulted in Plaintiff's fall and
15 injuries.

16 27. That as a direct and proximate result of the negligence of Defendant COSTCO,
17 Plaintiff slipped and sustained personal injuries, all or some of which conditions may be permanent
18 and disabling, and all to Plaintiff's damages in a sum in excess of Fifteen Thousand Dollars
19 (\$15,000.00).

20 28. That as a direct and proximate result of the negligence of Defendant COSTCO,
21 Plaintiff received medical and other treatment for the aforementioned injuries, and that said
22 services, care, and treatment is continuing and shall continue in the future, all to Plaintiff's
23 damages.

24 29. That as a direct and proximate result of the negligence of Defendant COSTCO,
25 Plaintiff is entitled to recover damages for the pain, suffering, anxiety, disability, emotional
26 distress, physical injuries and medical treatment, both past and future, all of which are damages
27 recoverable by Plaintiff, in an amount in excess of Fifteen Thousand Dollars (\$15,000.00).

28 ...

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30. That as a direct and proximate result of the negligence of Defendant COSTCO, Plaintiff suffered a loss of enjoyment of life, all of which are damages recoverable by Plaintiff, an amount in excess of Fifteen Thousand Dollars (\$15,000.00).

31. That as a direct and proximate result of the negligence of Defendant COSTCO, Plaintiff has limited recreational activities, which have caused and shall continue to cause Plaintiff physical impairment, mental anguish, and loss of enjoyment of life, in a presently unascertainable amount.

32. That as a direct and proximate result of the aforementioned negligence of Defendant COSTCO, Plaintiff has sustained a loss of earning capacity, past and future, as well as a loss of wages.

33. That as a direct and proximate result of the aforementioned negligence of Defendant COSTCO, Plaintiff has suffered a loss of past and future household services in an amount to be proven at trial.

34. That as a direct and proximate result of the aforementioned negligence of Defendant COSTCO, and/or DOE INDIVIDUALS and/or ROE ENTITIES, Plaintiff has been required to engage the services of an attorney, incurring attorney's fees and costs to bring this action.

FIRST CAUSE OF ACTION
(Negligence- Against all Defendants)

35. Plaintiff incorporates and realleges the preceding paragraphs as though fully set forth herein.

36. Plaintiff alleges that, at all times mentioned herein, Defendant COSTCO, and/or DOE INDIVIDUALS and/or ROE ENTITIES, had an interest in the Costco Store where the subject incident occurred through ownership, control, maintenance, inspection, contractual obligations, tenancy, occupancy, as landowners or otherwise.

37. Plaintiff alleges that, at all times mentioned herein, Defendant COSTCO, and/or DOE INDIVIDUALS and/or ROE ENTITIES, owed all invitees, members, licensees, guests, pedestrians, or other persons lawfully on their property or premises, a duty of reasonable care to

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1 remove or otherwise remediate all potentially hazardous conditions that existed in and around the
2 premises, including, without limitations, the customer walkways in the produce section.

3 38. Defendant COSTCO had a duty to maintain the premises and keep clear and safe
4 the areas of the customer walkways at all times.

5 39. Defendant COSTCO had a duty to maintain the premises and keep warning signage
6 in the areas of hazardous conditions.

7 40. Defendant COSTCO had a duty to keep the premises and customer walkways in
8 the produce section clean and free of potentially hazardous conditions.

9 41. Plaintiff alleges that, at all times mentioned herein, Defendant COSTCO had a duty
10 to take reasonable precautions to prevent any foreseeable dangerous or hazardous conditions, upon
11 which its members or invitees, including Plaintiff, could be injured.

12 42. Plaintiff alleges that, at all times mentioned herein, Defendant COSTCO had a duty
13 to keep and maintain the subject premises in a safe condition, including but limited to remedying
14 and/or curing any potentially dangerous and/or hazardous conditions, and mitigating or preventing
15 any foreseeable dangerous and/or hazardous condition, upon which its members or invitees,
16 including Plaintiff could be injured.

17 43. Plaintiff alleges that, at all times mentioned herein, Defendant COSTCO knew or
18 should have known that, on or about May 2, 2020, a hazardous condition existed in the subject
19 area of the customer walkway where the subject incident occurred.

20 44. Plaintiff is informed and believes, and thereon alleges that Defendant COSTCO,
21 was negligent because it failed to exercise reasonable care to prevent its employees and/or agents
22 foreseeable negligent and reckless conduct.

23 45. Plaintiff alleges that Defendant COSTCO had knowledge of the probable harmful
24 consequences of hazardous condition in the subject area of the customer walkway; Defendant
25 COSTCO's negligence as alleged herein amounted to a conscious disregard of the rights and safety
26 of others, including Plaintiff. Accordingly, Plaintiff is entitled to punitive damages.

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46. Defendant COSTCO breached the duty of care owed to the Plaintiff by failing to inspect for and/or clean and/or remove and/or otherwise remediate the foreseeable dangerous and/or hazardous condition upon which the Plaintiff slipped.

47. That as a direct and proximate result of the negligence of Defendant COSTCO, Plaintiff slipped and sustained personal injuries, all or some of which conditions may be permanent and disabling, and all to Plaintiff's damages in a sum in excess of Fifteen Thousand Dollars (\$15,000.00).

48. That as a direct and proximate result of the negligence of Defendant COSTCO, Plaintiff received medical and other treatment for the aforementioned injuries, and that said services, care, and treatment is continuing and shall continue in the future, all to Plaintiff's damages.

49. That as a direct and proximate result of the negligence of Defendant COSTCO, Plaintiff is entitled to recover damages for the pain, suffering, anxiety, disability, emotional distress, physical injuries and medical treatment, both past and future, all of which are damages recoverable by Plaintiff, in an amount in excess of Fifteen Thousand Dollars (\$15,000.00).

50. That as a direct and proximate result of the negligence of Defendant COSTCO, Plaintiff suffered a loss of enjoyment of life, all of which are damages recoverable by Plaintiff, an amount in excess of Fifteen Thousand Dollars (\$15,000.00).

51. That as a direct and proximate result of the negligence of Defendant COSTCO, Plaintiff has limited recreational activities, which have caused and shall continue to cause Plaintiff physical impairment, mental anguish, and loss of enjoyment of life, in a presently unascertainable amount.

52. That as a direct and proximate result of the aforementioned negligence of Defendant COSTCO, Plaintiff has sustained a loss of earning capacity, past and future, as well as a loss of wages.

53. That as a direct and proximate result of the aforementioned negligence of Defendant COSTCO, Plaintiff has suffered a loss of past and future household services in an amount to be proven at trial.

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54. That as a direct and proximate result of the aforementioned negligence Defendant COSTCO, and/or DOE INDIVIDUALS and/or ROE ENTITIES, Plaintiff has been required to engage the services of an attorney, incurring attorney's fees and costs to bring this action.

SECOND CAUSE OF ACTION

(Negligence via Vicarious Liability— Against All Defendants)

55. Plaintiff incorporates and realleges the preceding paragraphs as though fully set forth herein.

56. Plaintiff alleges that, at all times mentioned herein, Defendant COSTCO and/or DOE INDIVIDUALS and/or ROE ENTITIES, owned, controlled, and/or were responsible for maintaining, inspecting, cleaning, repairing, or overseeing the subject area in and around the produce area and customer walkways where the subject incident occurred and at the time and date of its occurrence.

57. Plaintiff alleges that, at all times mentioned herein, Defendant COSTCO and/or DOE INDIVIDUALS and/or ROE ENTITIES, were agents, servants, employees, successors in interest, and/or joint-venturers of their co-defendants, and, as such, were, acting within the course, scope, and authority of said agency, employment and/or venture on the date and time of the subject incident, and that each and every defendant, when acting as a principal, was negligent in the selection of each and every other defendant as an agent, servant, employee, successor in interest, and/or joint venture.

58. Plaintiff alleges that, at all times mentioned herein, Defendant COSTCO and/or DOE INDIVIDUALS and/or ROE ENTITIES, were responsible for the area where the subject incident occurred by and through the permission and authority given to them from another Defendant(s) and, as a result, Defendants and each of them are responsible for each other's negligence pursuant to the doctrines of vicarious liability and respondeat superior.

59. Plaintiff alleges that, at all times mentioned herein, Defendant COSTCO and/or DOE INDIVIDUALS and/or ROE ENTITIES, are vicariously liable for any and all damages Plaintiff incurred resulting from the negligent actions or omissions of Defendants' agents, employees, servants, partners, contractors, etc.

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60. Defendant COSTCO and/or DOE INDIVIDUALS and/or ROE ENTITIES breached the duty of care to the Plaintiff and that as a direct and proximate result of the negligence of Defendant(s), Plaintiff slipped and sustained personal injuries, all or some of which conditions may be permanent and disabling, and all to Plaintiff's damages in a sum in excess of Fifteen Thousand Dollars (\$15,000.00).

61. That as a direct and proximate result of the negligence of Defendant COSTCO, Plaintiff received medical and other treatment for the aforementioned injuries, and that said services, care, and treatment is continuing and shall continue in the future, all to Plaintiff's damages.

62. That as a direct and proximate result of the negligence of Defendant COSTCO, Plaintiff is entitled to recover damages for the pain, suffering, anxiety, disability, emotional distress, physical injuries and medical treatment, both past and future, all of which are damages recoverable by Plaintiff, in an amount in excess of Fifteen Thousand Dollars (\$15,000.00).

63. That as a direct and proximate result of the negligence of Defendant COSTCO, Plaintiff suffered a loss of enjoyment of life, all of which are damages recoverable by Plaintiff, an amount in excess of Fifteen Thousand Dollars (\$15,000.00).

64. That as a direct and proximate result of the negligence of Defendant COSTCO, Plaintiff has limited recreational activities, which have caused and shall continue to cause Plaintiff physical impairment, mental anguish, and loss of enjoyment of life, in a presently unascertainable amount.

65. That as a direct and proximate result of the aforementioned negligence of Defendant COSTCO, Plaintiff has sustained a loss of earning capacity, past and future, as well as a loss of wages.

66. That as a further direct and proximate result of the aforementioned negligence of Defendant COSTCO, Plaintiff has suffered a loss of past and future household services in an amount to be proven at trial.

67. That as a direct and proximate result of the aforementioned negligence of Defendant COSTCO and/or DOE INDIVIDUALS and/or ROE ENTITIES, Plaintiff has been

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1 required to engage the services of an attorney, incurring attorney's fees and costs to bring this
 2 action.

3 WHEREFORE, Plaintiff requests that this Court enter judgment against Defendant
 4 COSTCO and/or DOE INDIVIDUALS and/or ROE ENTITIES as follows:

- 5 1. General damages in an amount in excess of \$15,000.00;
- 6 2. Special damages in an amount in excess of \$15,000.00;
- 7 3. Medical and incidental expenses incurred and to be incurred;
- 8 4. Damages for past and future pain, suffering, mental anguish, and loss
 9 of enjoyment of life;
- 10 5. Damages for loss of wages and earning capacity;
- 11 6. Damages for loss of past and future household services;
- 12 7. Punitive damages as appropriate;
- 13 8. For an award of attorney's fees, costs of suit, and interest incurred;
 14 and
- 15 9. For such other and further relief as this Court deems just and proper.

16 AFFIRMATION

17 The undersigned does hereby affirm that the preceding document does not contain the
 18 social security number of any person.

19 DATED this 14 day of April 2022.

20 VALIENTE MOTT, LTD.

21 Nicole C. Bolick, Esq.

22 TIMOTHY A. MOTT, ESQ.

23 Nevada Bar No. 12828

24 JAMES A. TRUMMELL, ESQ.

25 Nevada Bar No. 14127

26 NICOLE C. BOLICK, ESQ.

27 Nevada Bar No. 15015

28 7785 W. Sahara Ave. #102

Las Vegas, Nevada 89117

Attorneys for Plaintiff

EXHIBIT “2”

EXHIBIT “2”



CT Corporation
Service of Process Notification
04/28/2022
CT Log Number 541494369

Service of Process Transmittal Summary

TO: Laura Aznavoorian, Litigation Supervisor
Gallagher Bassett Services, Inc.
1901 S. Meyers Rd, Suite 200C
Oakbrook Terrace, IL 60181

RE: Process Served in Nevada

FOR: Costco Wholesale Corporation (Domestic State: WA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Re: TONJA FRANCES BROWN, an individual // To: Costco Wholesale Corporation

CASE #: 22TRT000201B

NATURE OF ACTION: Personal Injury - Failure to Maintain Premises in a Safe Condition

PROCESS SERVED ON: C T Corporation System, Carson City, NV

DATE/METHOD OF SERVICE: By Process Server on 04/28/2022 at 12:55

JURISDICTION SERVED: Nevada

ACTION ITEMS: CT has retained the current log, Retain Date: 04/29/2022, Expected Purge Date: 05/14/2022

Image SOP

Email Notification, Laura Aznavoorian laura_aznavoorian@gbtpa.com

Email Notification, Zois Johnston zjohnston@costco.com

Email Notification, Maureen Papier maureen_papier@gbtpa.com

REGISTERED AGENT CONTACT: C T Corporation System
701 S. Carson Street
Suite 200
Carson City, NV 89701
866-665-5799
SouthTeam2@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.

EXHIBIT “3”

EXHIBIT “3”

**DECLARATION OF MICHAEL E. SULLIVAN IN SUPPORT OF
COSTCO WHOLESALE, INC.'S PETITION FOR REMOVAL**

I, MICHAEL E. SULLIVAN, hereby declare and say under penalty of perjury as follows:

1. I am an attorney at law licensed to practice in the State of Nevada and represent the Defendant COSTCO WHOLESALE CORPORATION ("COSTCO").

2. I make the instant declaration in support of Defendant COSTCO's Petition for Removal.

3. Plaintiffs sought unspecified damages in their Complaint for Plaintiff TONJA FRANCES BROWN's ("BROWN") alleged injury.

4. Attached as Exhibit "5" to Defendant COSTCO's Petition for Removal is Plaintiff BROWN's Demand Letter seeking \$500,00 in damages.

DATED this 6th day of May, 2022.


MICHAEL E. SULLIVAN

EXHIBIT “4”

EXHIBIT “4”

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

TONJA FRANCES BROWN

(b) County of Residence of First Listed Plaintiff CARSON CITY

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Nicole C. Bolick, Esq., VALIENTE MOTT, LTD, 7785 W Sahara Avenue, Suite 102, Las Vegas, NV 89117

DEFENDANTSCOSTCO WHOLESALE CORPORATION dba COSTCO
WHOLESALE, a foreign corporation; DOE INDIVIDUALS I through X;
and ROE ENTITIES I through XCounty of Residence of First Listed Defendant Washington

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Michael E. Sullivan, Esq, Hannah E. Winston, Esq. and Michael Burke
Robison, Sharp, Sullivan & Brust, 71 Washington Street
Reno, NV 89503, (775) 329-3151**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. §§1332(a), 1441, and 1446(b)(3)

Brief description of cause:

Personal Injury

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.DEMAND \$
75,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

5-6-22

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

EXHIBIT “5”

EXHIBIT “5”

VALIENTE MOTT

INJURY ATTORNEYS

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April 8, 2022

Via Email

Gallagher Bassett
Amanda_Lorin@gbtpa.com
Attn: Amanda Lorin

Re:	Our Client:	Tonja Brown
	DOI:	5/2/2020
	Insured:	Costco
	Claim No.:	003632-580490-GB-01

Dear Amanda Lorin,

Since we received your request to examine Tonja's prior medical history from 5 years before the incident that gives rise to this claim, we have been working diligently to gather those records. In full disclosure, we are still working to gather outstanding records for treatment Tonja received on her right knee prior to the injuries she suffered in Costco on May 2, 2020.

Even though we are still gathering prior records, we are sending the records that we have gathered to date for your review. As you know, the statute of limitations runs on the claim on May 2, 2022. We have prepared the complaint and are ready to file and serve the same. To negotiate with you in good faith, however, we are providing you with the prior medical records we have obtained to date, along with a copy of the complaint before we file the same. If you meet our demand of **\$500,000.00 by 5:00 p.m., on Friday, April 15, 2022**, then we will resolve this claim with you and not proceed into litigation. If you fail to accept our demand of \$500,000.00, however, then we file and serve the attached complaint.

Your review of the prior medical records will reveal that Tonja suffered from osteoarthritis in her right and left knees in the years leading up to the incident at Costco. But, the records make clear that she did not have a torn ACL before the incident occurred. We are, therefore, confident in proving causation in litigation. In fact, we are confident we will prove all the elements of

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INJURY ATTORNEYS

negligence, as Costco owed Tonja a duty of care, breached that duty by failing to properly maintain its premises, the breached caused Tonja to tear her ACL, along with several other injuries, and she suffered substantial damages as a result.

Of note, in a 2012 opinion, the Nevada Supreme Court held that “landowners are not free from the duty to exercise reasonable care solely because the danger posed was open and obvious.” *Foster v. Costco Wholesale Corp.*, 128 Nev. 773, 777 (Nev. 2012). As you may be aware, the *Foster* case was before the Nevada Supreme Court after an individual was injured in a Costco in Henderson, Nevada. The Court pointed out that “the open and obvious nature of a dangerous condition on its property does not relieve a landowner from a duty of care where harm from an open and obvious hazard is readily foreseeable by the landowner and the landowner has reason to know that the visitor might not expect or be distracted from observing the hazard.” *Id.* at 780. The *Foster* case applies to this claim, and we ask that you take it under consideration as you evaluate the claim. We have also attached the case to this letter for your review.

As stated above, it is our desire to negotiate with Costco in good faith, thus we offer you this last opportunity to meet our demand. However, if our demand is not met by **5:00 p.m., on Friday, April 15, 2022**, then we will file suit.

Sincerely,

Nate Quist

VALIENTE MOTT, LTD.